UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/48/932
29 April 1994

ORIGINAL: ENGLISH

Forty-eighth session
Agenda items 123 and 138

PROGRAMME BUDGET FOR THE BIENNIUM 1994-1995

ADMINISTRATIVE AND BUDGETARY ASPECTS OF THE FINANCING OF THE UNITED NATIONS PEACE-KEEPING OPERATIONS

Staff assessment and the Tax Equalization Fund

Report of the Secretary-General

1. The General Assembly, by its decision 47/459 of 23 December 1992, requested the Secretary-General to review all aspects of the question of staff assessment as they affect the budgets of United Nations organizations and programmes, taking into account the views of the International Civil Service Commission and the experience of other organizations of the system and established principles and practices, including the principle of ensuring equality of pay and benefits for all staff members, and to present proposals to the General Assembly at its forty-eighth session, through the Commission.

2. In its decision 48/472 B of 24 March 1994, the General Assembly also decided that the Secretary-General should develop a revised methodology for the estimation of the assessment in connection with the Tax Equalization Fund relative to the special accounts of peace-keeping operations, in consultation with Member States concerned, and submit proposals to the Assembly at its forty-eighth session, no later than 15 April, for decision, in order to ensure a more accurate estimation of the amounts required.

3. The present report has been prepared in response to those requests. It sets out the rationale for the reimbursement of taxes and the basic methodology relating thereto; it describes the budgetary processes involved for both the regular budget and peace-keeping operations; and makes certain recommendations. The report also reflects the views of the International Civil Service Commission as they relate to the establishment of rates of staff assessment and summarizes the action taken thereon by the General Assembly at the first part of its forty-eighth session. The report will be submitted to the Commission at its 1994 summer session.

I. RATIONALE FOR REIMBURSEMENT OF TAXES

4. The purpose of the tax reimbursement system is to place United Nations staff members who are subject to taxation in the position they would have had if their official emoluments were not taxed. It is thus intended neither to provide a benefit nor to place the staff member at a disadvantage in relation to other United Nations staff members who are not required to pay taxes to a Member State on their United Nations emoluments.

5. At the founding of the United Nations, the salaries of staff members were established in net terms, based on the assumption that the official salaries and allowances of officials would be free of tax in all countries. 1/ A provision concerning immunity from taxation was included in the Convention on the Privileges and Immunities of the United Nations, adopted on 13 February 1946, section 18 of which states:

> "Officials of the United Nations shall ... (b) be exempt from taxation on the salaries and emoluments paid to them by the United Nations."

6. Without awaiting the entry into force of the Convention and in view of possible reservations to section 18 (b), the General Assembly considered it necessary to reaffirm the principle of immunity from taxation and to authorize the Secretary-General to reimburse national taxes paid by staff members. Thus, in resolution 13 (I), also adopted on 13 February 1946, the Assembly concurred in the conclusion reached by the Advisory Committee on Administrative and Budgetary Questions 2/ that there was no alternative to the proposition that exemption from national taxation for salaries and allowances paid by the Organization was indispensable to the achievement of equity among its Members and equality among its personnel.

7. The General Assembly therefore resolved that, pending the necessary action being taken by Members to exempt from national taxation salaries and allowances paid out of the budget of the Organization, the Secretary-General is authorized to reimburse staff members who are required to pay taxation on salaries and wages received from the Organization. In that connection, the Assembly also stated that in the case of any Member whose nationals in the service of the Organization are required to pay taxation on salaries and allowances received from the Organization, the Secretary-General should explore with the Member concerned methods of ensuring as soon as possible the application of the principle of equity amongst all Members.

8. However, some Member States that had not ratified the Convention or did so with reservations continued to levy income taxes on the United Nations earnings of their citizens or permanent residents.

II. METHODOLOGY FOR IMPLEMENTATION

9. In order to implement the principle of equality among staff members, some of whom were subject to taxation, the General Assembly, in its resolution 239 (III) of 18 November 1948, imposed a direct assessment on United Nations staff members which is comparable to national income taxes. A system of gross

and net salaries was established, with staff assessment being the difference between the two salary levels. As indicated in resolution 239 (III) and in the debates prior to its adoption, the establishment of the staff assessment scheme was intended to accomplish three aims:

(a) Encourage those Member States which had not adhered to the Convention on the Privileges and Immunities of the United Nations, under which United Nations officials were to be exempt from national taxation of their United Nations emoluments, to do so;

(b) Create funds from which to grant relief from double taxation to those staff members who were subject to national taxation on their United Nations emoluments;

(c) Ensure, in the interest of public understanding, that United Nations officials were not treated as a privileged group exempt from any form of taxation.

10. Thus, under the staff assessment plan, all staff members are required to pay staff assessment on their gross salaries, and all staff members are paid net salaries, irrespective of whether or not they are required to pay income taxes levied by a Member State on their United Nations emoluments. The establishment and the operation of the staff assessment plan are reflected in staff regulation 3.3, paragraphs (a) to (e), adopted by the General Assembly.

11. The main elements of the functioning of the tax reimbursement system for those staff members who are required to pay taxes to a Member State are also contained in staff regulation 3.3. Staff regulation 3.3 (f) provides:

> "(f) Where a staff member is subject both to staff assessment under this plan and to national income taxation in respect of the salaries and emoluments paid to him or her by the United Nations, the Secretary-General is authorized to refund to him or her the amount of staff assessment collected from him or her provided that:
>
> (i) The amount of such refund shall in no case exceed the amount of his or her income taxes paid and payable in respect of his or her United Nations income;
>
> (ii) If the amount of such income taxes exceeds the amount of staff assessment, the Secretary-General may also pay to the staff member the amount of such excess."

12. Following the introduction of the staff assessment plan but prior to the establishment of the Tax Equalization Fund (see para. 14 below), the total deductions applied to gross salaries for staff assessment were reflected in the regular budget as miscellaneous income. The balance of the staff assessment income available, after providing for the amounts required to reimburse staff members for their national income tax liabilities on their United Nations earnings, was distributed as a credit to Member States.

13. Although this practice achieved the aim of ensuring equality of remuneration for all staff members, irrespective of their nationality, it did not satisfy the principle of equity among Member States. From 1946 until 1955, the tax reimbursement was financed from the regular budget, utilizing funds provided by all Member States, including those which had adhered to the Convention provisions on taxation.

14. To achieve the desired equity among Member States, the General Assembly, by its resolution 973 (X) of 15 December 1955, established the Tax Equalization Fund as from 1 January 1956. In accordance with the conditions set out in that resolution, all revenues from staff assessment levied on the gross salaries of staff paid from the United Nations regular budget are credited to the Tax Equalization Fund. Such amounts are recorded in sub-accounts of the Fund in the name of each Member State in the proportion of its contribution to the budget. In response to a recommendation by the Advisory Committee on Administrative and Budgetary Questions (A/32/386, para. 14), comparable provisions were established for staff paid from assessed peace-keeping operations by the General Assembly in its resolutions 33/13 C of 8 December and 33/14 of 3 November 1978.

15. When a staff member financed from the regular budget or from an assessed peace-keeping operation is required to pay income taxes imposed by a Member State on his or her United Nations income, the reimbursement made by the United Nations to that staff member is charged against the credit, in the Tax Equalization Fund, of the Member State that levied the taxes. In resolution 1099 (XI) of 27 February 1957, the General Assembly decided that the same system would be applied to local and state income taxes.

16. In accordance with General Assembly resolution 973 (X), financial regulation 5.2 and financial rule 105.5, if the amount required for income tax reimbursement is less than the credits of a Member State in its respective sub-account of the Tax Equalization Fund, the balance of such credits is to be offset against the contributions due from the Member State. On the other hand, if the total of such reimbursements exceeds the credits of a Member State in the Tax Equalization Fund, the excess is to be charged, in accordance with General Assembly resolution 973 (X), to the regular budget of the United Nations.

17. The credits in the Tax Equalization Fund of the Member States that do not tax the salaries and other emoluments of United Nations staff are set off against their assessments for the regular budget or the particular peace-keeping operation. In practice, therefore, these Member States are assessed on a net basis.

18. There are 12 Member States 4/ that tax the United Nations emoluments of staff under certain circumstances and therefore do not adhere to the practices called for under section 18 (b) of the Convention on Privileges and Immunities. As the number of staff members subject to taxation on their United Nations income by the United States of America is very substantial, the United States is assessed on a gross basis, to ensure that there will be sufficient funds to meet the tax reimbursements the Organization is required to make.

19. For the other 11 Member States that tax the United Nations income of staff members, the amounts reimbursed by the Organization to staff members in relation

to such taxes are charged to the sub-account of the Member State in the Tax Equalization Fund, and adjustments to the credits of the Member State are made at the end of the financial period.

III. ESTABLISHMENT OF STAFF ASSESSMENT RATES

20. The responsibility for recommending to the General Assembly the rates of staff assessment that should be established rests with the International Civil Service Commission. In response to a request from the Assembly in section XXVI of its resolution 47/219 of 23 December 1992, the Commission, at its thirty-eighth session, held from July to August 1993, considered developments in the staff assessment/tax equalization system in recent years, as reflected in its report to the Assembly at its forty-eighth session. 5/

21. The developments in that regard over the period from 1971 to 1993 may be summarized briefly as follows. Between 1971 and 1988, post adjustment (which is not subject to staff assessment although it is taxable) tended to increase periodically as a proportion of total United Nations emoluments. The consequent increase in the level of tax reimbursements the United Nations was obliged to make, without a corresponding increase in staff assessment income, placed a strain on the resources of the Tax Equalization Fund.

22. This situation was alleviated by means of periodic consolidations of classes of post adjustment into base pay, thus increasing the amounts subject to staff assessment and, consequently, increasing the resources of the Tax Equalization Fund. In 1987, the Commission, foreseeing a shortfall in the Fund, recommended higher rates of staff assessment, which were approved by the General Assembly and went into effect on 1 April 1988.

23. More recently, as part of its comprehensive review of conditions of service of staff in the Professional and higher categories, the Commission recommended, and the General Assembly approved, the concept of the base floor salary scale. Under this procedure, points of post adjustment have been consolidated into base pay each year since 1990. Such consolidations were carried out, however, independently of their impact on the resources of the Tax Equalization Fund, and the balance of the Fund grew as a result.

24. For that reason, the Commission recommended to the General Assembly at its forty-eighth session that there be a decrease of approximately 10 per cent in the staff assessment rates applicable to staff in the Professional and higher categories. 6/ The General Assembly, in section IV of its resolution 48/224 of 23 December 1993, adopted the revised scales recommended by the Commission with effect from 1 March 1994.

IV. BUDGETING FOR STAFF ASSESSMENT

25. In the regular budget of the United Nations, salary costs for which provision is made in individual sections of the budget are shown on a net basis to facilitate comparability with the work programmes and budgets of other organizations. The programme budget also contains a separate expenditure

section (section 28 of the programme budget for the biennium 1994-1995) reflecting the total amounts required for staff assessment for all posts funded in the budget. Thus, the programme budget is presented on a gross and net basis.

26. All staff assessment collected by deduction from gross salaries, including staff assessment collected from staff members encumbering posts charged to revenue-producing activities, is credited to income section 1 of the budget. In turn, it is transferred to the Tax Equalization Fund, where it is credited to the sub-account of each Member State in direct proportion to its assessment for the budget (see para. 14 above).

27. Budgets for assessed peace-keeping operations are also presented on a gross basis, with expenditures and income pertaining to staff assessment shown separately in the budget documents. As with the regular budget, actual staff assessment collected by deduction from salaries is credited to the Tax Equalization Fund, with the credit for each Member State being given in proportion to its rate of assessment for that budget.

28. For activities and programmes funded from voluntary contributions, the link to the Tax Equalization Fund does not apply. Budgets for such activities and programmes are established on a net basis. The amounts required to reimburse staff members on posts financed by those programmes for amounts they may be required to pay to Member States as taxes on their United Nations emoluments are charged to "common staff costs" under the various trust funds and voluntary programmes concerned.

29. It should be noted that in both the programme budget and the budgets of peace-keeping operations the amounts foreseen for staff assessment income rarely match precisely the income actually derived from staff assessment, as the income accrues only as salaries are paid. Thus, for any period during which a budgeted post is vacant, no gross salary and related expenses are incurred, and no income from staff assessment is realized. Similarly, while posts are budgeted at a standard cost for each grade, the actual gross salary and staff assessment income related to each post will be determined by the actual step in grade of the incumbent.

V. ADJUSTMENT OF BALANCES IN THE TAX EQUALIZATION FUND

30. As indicated in paragraphs 16 to 19 above, procedures exist, in accordance with the provisions of General Assembly resolution 973 (X) and the Financial Regulations and Rules of the United Nations, 7/ for adjusting the balances of each Member State in the Tax Equalization Fund. Those Member States which do not tax the United Nations emoluments of staff members are assessed, in practice, on a net basis, as indicated in paragraph 17. This arrangement means that such Member States receive an advance credit, at the time of assessment, for their share of the amount of staff assessment it is estimated will accrue during the budgetary period to which the assessment relates.

31. Those Member States other than the United States which do levy taxes on United Nations emoluments are similarly given advance credits against their assessment (also based on their share of the staff assessment estimated to accrue during the budgetary period); however, such credits are reduced by the amount of actual tax reimbursements made to staff members, during the preceding financial period, for taxes levied by the Member States concerned.

32. As pointed out in paragraph 18, the United States is assessed on a gross basis (i.e. without any credits being applied in advance in respect of its share of the estimated staff assessment to be accrued during the budgetary period), in view of the substantial number of staff members who are subject to tax by the United States taxing authorities on their United Nations emoluments. Over the past 20 years, it has been the normal practice to carry forward, from one financial period to the next, any balance of the United States credits in the Tax Equalization Fund, so as to provide for anticipated increases in subsequent liabilities for tax reimbursement. During the biennium 1978-1979 and at the end of the biennium 1992-1993, however, United States credits in the Tax Equalization Fund in excess of the amounts estimated to be required for tax reimbursement were applied against contributions due from the United States.

33. For all Member States, the credits given, based on budgetary estimates, need to be adjusted periodically to reflect the actual staff assessment income that has accrued, as shown in the final accounts of the financial period. If actual staff assessment income has exceeded the estimated income, the balances are distributed to Member States as additional credits. Conversely, there may be, for the reasons indicated above, cases in which the actual income is lower than that originally foreseen. In either case, a compensating adjustment is made in the first assessment issued after the accounts of the financial period have been closed, audited and reviewed by the General Assembly.

34. The actual amounts required for reimbursement of taxes levied by Member States for the year 1993 cannot be determined precisely at the present time, since not all requests for reimbursement have yet been submitted for processing. It is anticipated, however, that the liability for tax reimbursement for 1993 will be lower than the staff assessment income credited to the sub-accounts of the Member States that levy taxes on United Nations staff members. It is assumed that one reason for this situation is the increase in staff assessment income for peace-keeping operations in the past two years.

35. At the present stage, it is not possible to quantify the impact of recent increases in tax rates in the United States on the amounts required for reimbursement by the United Nations of taxes levied by that Member State. Similarly, the precise effect of the reduction in staff assessment rates as from 1 March 1994 (see para. 24) on the amount of staff assessment income to be realized is not clear. These elements, together with the fact that the reimbursement of taxes for 1993 has not yet been completed, make it difficult to project the amounts that will be available in the sub-accounts of Member States in the Tax Equalization Fund at the end of 1994.

36. Under the circumstances, a cautious approach needs to be taken in determining the amounts, if any, that can be credited in advance to Member States under financial regulation 5.2 (e).

VI. CONCLUSIONS

37. The fundamental principles of equality among the personnel of the United Nations and equity among its Member States remain as valid today as they were at the founding of the Organization. The mechanisms of staff assessment and the Tax Equalization Fund, together with the system for reimbursement of taxes levied by Member States on United Nations emoluments, operate effectively to achieve those principles.

38. For the reasons outlined in paragraphs 34 to 36, the amounts to be credited to Member States for staff assessment income and the timing of such credits (i.e. in advance of, or after, a financial period) require further analysis and review. In particular, the pattern of 1993 tax reimbursements, when they are finalized, needs to be studied to determine the impact of peace-keeping operations on the income and expenditures of the Tax Equalization Fund. The actual staff assessment income realized in the first nine months of 1994, as well as early projections of tax reimbursement requirements for 1994, also require careful monitoring.

39. Pending the completion of the analyses outlined above and subject to the conclusions that might derive from them, it is proposed, in the context of financial regulation 5.2 (e), as regards those assessments for peace-keeping operations which are made henceforth in 1994, to credit, against the assessments of the United States, that portion of its share of estimated staff assessment income which exceeds 25 per cent of all staff assessment income.

Notes

1/ Report by the Executive Committee to the Preparatory Commission of the United Nations, dated 12 November 1945 (PC/EX/113/Rev.1) chap. VI, sect. 2, para. 68.

2/ It should be noted that the Preparatory Commission of the United Nations had previously reached the same conclusion.

3/ Botswana, Canada, Colombia, Germany, Madagascar, Morocco, Spain, Turkey, Uganda, the Republic of Tanzania, the United States of America and Zaire.

4/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 30 and corrigendum (A/48/30 and Corr.1), paras. 199 to 206.

5/ The Commission considered that it was not necessary to revise the rates of staff assessment for the General Service and other locally recruited categories of staff at the same time, because the scale had already been revised with effect from 1 January 1992.

6/ In particular, financial regulation 5.2 (e) and financial rules 105.3 to 105.5.